

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF COMMUNITY AFFAIRS
HOME Investment Partnerships Program**

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**HOME****MANAGEMENT MEMORANDUM**

HOME Investment Partnerships Program

Memorandum Number: 04-01

April 5, 2004**To:** HOME cities, counties, CHDOs, and Administrative Subcontractors**From:** State HOME Program**Re:** HOME Program Improvements

The HOME program is pleased to announce five improvements to the HOME program that have been made in response to your suggestions. We encourage you to continue making suggestions. You may direct your suggestions or questions to your HOME representative, by e-mailing the HOME program at HOME@hcd.ca.gov, or by calling the main HOME phone number at (916) 322-0356.

The improvements are in the following areas:

- First Time Homebuyer Match Waiver - CalHFA Sales Price Limits
- Crediting of Program Income to State Recipient Milestones
- HOME Policy on Resale Agreements
- Transfers between Program activities in State Recipient Standard Agreements
- Model Homebuyer Program Guidelines

In addition, we would like to preview upcoming changes in:

- Program Income/Recaptured Funds Requirements

First Time Homebuyer (FTHB) Program Homebuyer Match Waiver - CalHFA Sales Price Limits

Applicants may request a waiver from the HOME match requirement for First Time Homebuyer (FTHB) activities in communities where there are an insufficient number of homes for sale below the CalHFA sales price limit. To be considered, waiver requests must be signed by the person authorizing submittal of the application and address the following threshold review items:

- What is the CalHFA sales price limit for your community?

- How many homes have sold below this limit in the last three months? Attach a list of actual sales in this timeframe.
- Why can't a HOME FTHB activity be operated, with CalHFA financing, with the available number of homes? What effect, if any, has the difficulty in using CalHFA financing had on an existing HOME FTHB program?
- What other sources of match have been provided for FTHB activities in the last three years? Are these sources still available? If not, why not?
- Does your community have a Redevelopment Agency? If you have a Redevelopment Agency, has its funding been used as FTHB match? Is it available now? If not, why not? Please attach a budget plan from the Redevelopment Agency supporting these statements.

Crediting of Program Income to State Recipient Milestones

We know that the high volume of refinancing and other factors has greatly increased the amount of Program Income that cities and counties have received. We know that HUD's requirement that Program Income be spent before requesting HOME funds may limit the ability to meet milestone requirements. Therefore, we will allow HOME contractors to request that their Program Income expenditures for the same activity(ies) funded by a HOME Standard Agreement be credited to all but the final expenditure milestone. To be counted toward the expenditure milestones of a specific Agreement, the expenditures must have occurred after the effective date of that Agreement. We will include in the final expenditure milestone only actual expenditures processed in the IDIS system; no Program Income will be included. It is our intent that this policy still result in the expenditure by the State Recipient of the entire contract amount. The policy is intended to allow time to deal with unexpected Program Income revenue and to adjust expenditure rates to expend both Program Income and contracted funds.

A written request must be received prior to the expenditure milestone in question. The request must address the following items:

- 1) The State Standard Agreement to be credited.
- 2) Total amount of Program Income to be credited.
- 3)
 - a) Type of activity;
 - b) name of beneficiary;
 - c) address of project (or other identification of project site);
 - d) amount of assistance provided for each individual project;
 - e) the date of when funds were transferred out of the Local HOME Account; and
 - f) the date of expenditure (this could be different if funds were transferred from the Local HOME Account to an escrow account.)
- 4) Verification of Program Income expenditures must be maintained in the local State Standard Agreement file for each individual project file assisted for monitoring purposes.

HOME Policy on Resale Agreements

The HOME Final Rule requires that Participating Jurisdictions choose either the resale or recapture method. The State of California chooses the recapture method for all loans, except those associated with Community Land Trusts. This choice was made because it allows the principal amount of the loan to be forgiven (regardless of the sales price) if necessary to preserve the homeowner's original downpayment, paid off principal, and capital improvements. In other words, in a flat or declining market, the sales price may otherwise be too low to preserve the owner's equity.

Although the State HOME loan must be in the form of Recapture loan, the State will allow the use of resale agreements imposed by other entities (usually the local jurisdiction) when there is a source of subsidy other than HCD funds. The source of subsidy need not necessarily be an actual loan; it may be in the form of an inclusionary housing ordinance which requires homes to sell below fair market value. The City or County must request advance State HOME Program approval and address the following requirements:

- When the original HOME assisted owner sells, the HOME loan must be repaid to the city, county, or State (for CHDO loans). The city or county may immediately, in escrow, loan these funds to the purchaser if all HOME requirements are met (e.g. buyer must be HOME income eligible, sales price must be below the sales price limit, the total amount of HOME funds must be below the 221(d)(3) subsidy limits).
- The Resale Agreement (which must be submitted for State HOME Program approval) must contain the following requirements:
 1. The unit must continue to be the principal residence for at least the HOME period of affordability (5, 10, or 15 years depending on the amount of HOME funding);
 2. The price at resale must guarantee the original HOME assisted owner a fair return on investment, including any capital investment, principal reduction, and original downpayment. Deductions, if any, for deferred maintenance may not affect the guaranteed amounts due the HOME assisted owner. If the selling price of the home is insufficient to provide the guaranteed amount for the owner, the amount due the City, County, or State may be reduced accordingly;
 3. The resale agreement may be in the form of deed restrictions, covenants running with the land, or other similar mechanisms.
- The State Recipient may use purchase options, rights of first refusal or other preemptive rights.
- Affordability restrictions may terminate because of foreclosure, transfer in lieu of foreclosure or assignment of an FHA loan to HUD.

Transfers Between Program Activities in State Recipient Standard Agreements

State Recipients, with two program activities in a single Standard Agreement, may request HCD approval to shift funds between these activities. The State HOME program will evaluate requests to determine if they are reasonable. State HOME program approval, may, depending on the exact language of the Standard Agreement for that specific contract year, be in the form of a letter or a contract amendment. Approval is required before the State Recipient awards or expends funds in excess of the amounts stated in the Agreement.

State Recipients, with one program activity in a single Standard Agreement, may request HCD approval to add another program activity (with no increase in funds). The evaluation and timing considerations are the same as immediately above, but any such change will require a contract amendment. Similarly, State Recipients may request approval to substitute one or both program activities with other activities; such requests will also require contract amendments.

Plan on the contract amendment process taking 2 to 3 months to complete. Please make certain that you allow sufficient time, after the 2 to 3 month amendment process, to use the funds in question. Finally, if you are requesting a change that requires a contract amendment, please ensure that the original authorizing City/County Resolution also authorizes amendments.

Requests to change the site identified in a HOME application, or changes between programs and projects (subdivisions and rental projects), will continue to be prohibited. Site changes (for project applications) are specifically not allowed in the State HOME Program Regulations. HOME applications for programs are evaluated separately from HOME applications for projects. Therefore, it isn't fair to allow changes between these types of applications.

Model Homebuyer Program Guidelines

As part of the HCD Community Affairs Division initiative to standardize single family program policies, the State HOME, CDBG, and CalHome Programs have developed a set of Sample Homebuyer Program Guidelines and a Homebuyer Program Guidelines Checklist. These documents serve as a "best practices" technical assistance tool for local jurisdictions, grantees, sponsors, and contractors that use State HOME, CDBG or CalHome Program funds for homebuyer assistance. This tool will assist local representatives to develop homebuyer programs that meet the requirements of all three programs, especially where more than one HCD program funding source is accessed, or when substituting one HCD funding source for another.

The [Homebuyer Program Guidelines](#) and Checklist will be updated periodically to reflect current best practices and changing requirements. The first versions of these documents are dated January 30, 2004 and can be obtained from the HCD Website at the following links:

<http://www.hcd.ca.gov/ca/SmplHmByrGuid.doc>

<http://www.hcd.ca.gov/ca/HmByrPrgmGuidChklst.xls>

Changes in Program Income/Recaptured Funds Requirements

Other changes, especially in the area of Program Income and Activity Delivery Costs, are being made to address some of your concerns and to comply with recently clarified HUD requirements. If you receive Program Income/Recaptured funds, make sure that you either attend the upcoming Contract Management Training workshops (Riverside, 4/22-23; Hanford 4/27-28; Sacramento 5/5-6) or, if unable to attend, request a Contract Management Manual. The Manual will also be posted on the State HOME website, at www.hcd.ca.gov/ca/home. For more information on the workshops, please call your Program Representative or the main HOME number, at (916) 322-0356.